



Federal Aviation Administration

[Docket No. FAA–2022-0345]

Airport Improvement Program (AIP) Grant Assurances

AGENCY: Federal Aviation Administration (FAA), Department of Transportation.

ACTION: Notice of proposed modification of Airport Improvement Program grant assurances; opportunity to comment.

SUMMARY: The FAA proposes to modify the AIP grant assurances to reflect recently issued executive orders, clarify recodification and addition of certain public laws, update civil rights requirements, and make technical corrections.

DATES: The FAA will accept public comments concerning these proposed modified grant assurances for 14 days. Comments must be submitted on or before **April 12, 2022**. In response to comments received, the FAA will consider appropriate revisions to these grant assurance modifications and publish a subsequent notice in the **Federal Register** to finalize the grant assurances.

ADDRESSES: You may send comments [identified by Docket Number FAA– 2022–0345] using any of the following methods:

- Government-wide Rulemaking Website: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- Mail: Docket Operations, U.S. Department of Transportation, West Building, Ground Floor, Room W12– 140, Routing Symbol M–30, 1200 New Jersey Avenue SE, Washington, DC 20590.
- Fax: 1–202–493–2251.
- Hand Delivery: To Docket Operations, Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dave Cushing, Manager, Airports Financial Assistance Division, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, telephone (202) 267–8827; fax: (202) 267–5302.

Authority for Grant Assurance Modifications

This notice is published under the authority described in subtitle VII, part B, chapter 471, sections 47107 and 47122 of title 49 United States Code (U.S.C.). In addition, the statutory authorities delegated to the Federal Aviation Administration are enumerated in title 49 Code of Federal Regulations (CFR) 1.83 (“Delegations to the Federal Aviation Administration”).

SUPPLEMENTARY INFORMATION: A sponsor (applicant) seeking financial assistance in the form of an AIP grant for airport planning, airport development, noise compatibility planning, or noise mitigation under 49 U.S.C., as amended, must agree to comply with certain assurances. These grant assurances are incorporated in, and become part of a sponsor’s grant agreement for Federal assistance. As need dictates, the FAA modifies these assurances to reflect new Federal requirements. Notice of such modifications is published in the **Federal Register**, and an opportunity for public comment is provided. The assurances that apply to a sponsor depend on the type of sponsor.

There are four types of AIP grant assurances:

- Airport Sponsor (applicable for airport development);

- Non-Airport Sponsors Undertaking Noise Compatibility Program Projects;
- Planning Agency Sponsors; and
- Aviation State Block Grant Program.

The current assurances were published on February 28, 2020, at 85 FR 12048. Prior to the FAA Reauthorization Act of 2018 (Pub. L. 115-254), the assurances were published on:

- September 6, 1984, at 49 FR 35282;
- February 3, 1988, at 53 FR 3104 and amended on September 6, 1988, at 53 FR 34361;
- August 29, 1989, at 54 FR 35748;
- June 10, 1994, at 59 FR 30076;
- January 4, 1995, at 60 FR 521;
- June 2, 1997, at 62 FR 29761;
- August 18, 1999, at 64 FR 45008;
- August 24, 2004, at 69 FR 52057 and amended on March 29, 2005, at 70 FR 15980;
- March 18, 2011, at 76 FR 15028;
- April 13, 2012, at 77 FR 22376; and
- April 3, 2014, at 79 FR 18755.

A complete list of the draft grant assurances may be viewed at:
https://www.faa.gov/airports/aip/grant_assurances/drafts_2022/.

Discussion of AIP Grant Assurance Modifications

The FAA proposes making several changes to the AIP grant assurances. If adopted, these changes will be in effect for grants issued on or after a subsequent notice in the **Federal Register** finalizing the grant assurances. The proposed changes to the AIP grant assurances are listed below. The grant assurance numbers referenced relate to the Airport Sponsor assurance:

Technical Corrections and Updates

Because the technical corrections have no change on the substance of the assurances, these proposed changes, including minor edits to grant assurances 5, 11, 19, 29, 31, 34, and 37, have not been specifically called out. For example, the FAA proposes to change the title of grant assurance 11 from “Pavement Preventive Maintenance” to “Pavement Preventive Maintenance-Management” and proposes to correct the citation for the Fraud Civil Remedies Act in grant assurance 37. The FAA proposes to update the list of the applicable Advisory Circulars referenced in grant assurance 34 that is publicly available here: <https://www.faa.gov/airports/aip/media/aip-pfc-checklist.pdf>.

The FAA also proposes a number of corrections to reflect recodification of certain public laws and to add United State Code (U.S.C.) section information in grant assurance 1 to clarify applicable legislation. Additionally, the FAA proposes to add the Civil Rights Restoration Act of 1987, P.L. 100-209 to the list of applicable Federal Legislation.

Additions to List of Executive Orders

The FAA proposes to add the following Executive Orders:

- Executive Order 13166 (“Improving Access to Services for Persons with Limited English Proficiency”),

- Executive Order 13985 (“Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government”),
- Executive Order 13988 (“Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation”),
- Executive Order 14005 (“Ensuring the Future is Made in all of America by All of America’s Workers”), and
- Executive Order 14008 (“Tackling the Climate Crisis at Home and Abroad”) to the list of executive orders applicable in grant assurance 1.

Addition of Assurances 23 and 37 to the List of Assurances that Apply to Airport Planning Undertaken by a Sponsor

For a planning project, not all of the airport sponsor grant assurances apply, some project-specific assurances apply while the planning project is going on, and others continue to apply after the planning project is over. The FAA proposes to add grant assurance 23, Exclusive Rights, and grant assurance 37, Disadvantaged Business Enterprises, to the list of applicable assurances.

Per 49 U.S.C. 47107, a person providing, or intending to provide, aeronautical services to the public must not be given an exclusive right to the airport except if certain specific conditions apply. Since Sponsors who are receiving funds for planning projects must be, at minimum, intending to provide airport services, grant assurance 23 applies when an airport sponsor takes a grant for airport planning.

Per 49 CFR part 26, each Sponsor undertaking any project where it is receiving grant funds via an agreement with FAA is required to have a Disadvantaged Business Enterprise program, regardless of the type of project the Sponsor undertakes. Therefore, grant assurance 37 is also applicable to Sponsors undertaking planning projects.

Section B Duration and Applicability, (3) Airport Planning Undertaken by a Sponsor, is now proposed to read:

“Unless otherwise specified in this Grant Agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 23, 25, 30, 32, 33, 34, and 37 in Section C apply to planning projects. The terms, conditions, and assurances of this Grant Agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.”

Updates to Grant Assurance 28, Land for Federal Facilities

The FAA proposes to remove the language “rights in buildings of the sponsor” from grant assurance 28 because sponsors are not obligated to furnish rent-free space in a facility owned by the airport sponsor unless otherwise provided for in section 147 of the FAA Reauthorization Act of 2018 (Pub. L. 115-254).

Updates to Grant Assurance 30, Civil Rights Requirements

The FAA proposes to update the civil rights protected bases to align with, and explicitly list, the applicable legal authorities. Also, previously, the grant assurance indicated that the civil rights requirements are applicable to “any activity conducted with, or benefiting from, funds received from [the] Grant.” The FAA proposes to add the word “program” to better align requirements with the Americans with Disability Act and Title VI of the Civil Rights Act of 1964.

Issued in Washington, DC on March 29, 2022.

Robert John Craven,

Director,

Office of Airport Planning and Programming.

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